

# NOTES AND PROCEEDINGS, NOVEMBER SESSION, 1810.

Also returns the engrossed bills No. 131, 132, 133, 134, 140 and 170, severally assented to by that house December 25, 1810.

The clerk of the house of delegates delivers the engrossed bills No. 171, 172, severally assented to by that house December 25, 1810; which were severally read, assented to, and sent to the house of delegates by the clerk.

On the second reading of the following message, to wit:

By the S E N A T E, December 25, 1810:

*Gentlemen of the House of Delegates,*

WE have received your message, or protest, accompanying the bill concerning the equity jurisdiction of the county courts, which containing no avowed or explicit object of communication connected with the passage of the bill, we were at a loss to determine, how, according to the usual course of parliamentary proceedings, this message could become a subject for the consideration of the senate. But feeling that high respect for the house of delegates which should ever be reciprocated by the two branches of the legislature, we have, in order that your communication might not pass without the notice of an answer, been induced to believe, by matter of inference, that the amendments proposed by us to the further supplement to the act, entitled, An act relating to the equity jurisdiction of the county courts, have been negatived by you, and are returned for reconsideration, with a request that the senate may recede therefrom. We will not controvert the position that it is not inconsistent with the decorum due from your honourable body to examine the reasons of this house on any subject on which they may have passed a determination, but it is a matter of regret to the senate, in the present instance, that these reasons were not more thoroughly known and understood before the house of delegates should have made them the object of a formal protest. Judging from the first sheet of your message, it would seem that this house had made a positive rejection of the bill, which appears to be, in so peculiar a manner, the desideratum of your body, whilst in the latter part of your communication you state, that the senate have avoided any decision on the question, and flatter yourselves, that upon reconsideration, we would adopt the bill. What may be the precise object of this alternate statement and reasoning it is not material now to investigate.

The first amendment proposed was introduced solely with a view to render the bill in strict conformity to the provisions of the act to which it purports to be a supplement, and from a belief that equity and justice would be as satisfactorily and more expeditiously administered in the court of chancery, which is always in session, than in the court of appeals which sits but twice a year. As to the insinuation that this measure was founded in a wish to promote the interest of an officer, at the expense of the public, the senate know too well the respect due to themselves to answer it.

With regard to the second amendment, the senate were influenced to its adoption as well on the ground of their not being satisfactorily informed that the people required this important change in the jurisprudence of the state, as from a belief that the bill received from your house was so materially defective in the detail as to be inadequate to the accomplishment of the object of its framers. From the bill's not being submitted to our consideration until the very close of the session, when subjects of an imperious nature, and not susceptible of postponement, were pressed upon us, and when the house of delegates themselves were referring almost every law which was susceptible of reference to the next general assembly, the senate feeling themselves unable, for want of time, to render, by amendments, the bill perfect in all its parts, consented to pass it with a provision by which its operation would be postponed for twelve months, and, from its publication with our laws, disseminated throughout the state, the attention of the people would be called to the subject, and time would be afforded for the preparation of those amendments making the system complete and effectual.

Whilst we feel every disposition to concede to the house of delegates their full weight in the legislative proceedings of the state, we cannot refrain from declaring our dissent from the principle assumed by you, that the public voice, on subjects of a general nature, can only be expressed through the medium of your house. Such a position, if admitted, would wrest from the senate the dignity and power secured to them by the constitution as a co-ordinate branch of the legislature, and the assumption of such a principle by your house, would become the subject of a decisive protest on the part of our body, did we permit ourselves to use any intemperate harshness in our correspondence with you. With much greater propriety, we humbly conceive, might the house of delegates assume to themselves, the exclusive power of legislation on subjects of a local or temporary nature. As regards the expression of the public on the bill, the immediate cause of this communication, the senate are of opinion that the wishes of the people never have been by themselves decisively expressed, in as much as the measure never was made a question through the state generally before the people at the time of elections.

In concluding this message the senate cannot refrain from repelling the coercive insinuation used by the house of delegates, that every measure adopted by that body has been, or will be, sanctioned by the wishes or approbation of the people. The senate adhere to their amendments.

By order,

T. ROGERS, clk.

The question was put, Will the senate agree thereto? The yeas and nays being required, appeared as follow:

AFFIRMATIVE.

Mr. Thomas, president, Mr. Bowie, Mr. Lloyd Dorsey, Mr. Thomas B. Dorsey, Mr. Fenwick, Mr. Gibson, Mr. Lowrey, Mr. Williams. 3.